



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS

AF12644
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#14
B.D.
6-5-08

In re Patent Application of:)
FOLIO)
Serial No. 09/896,894)
Confirmation No: 1203)
Filing Date: JUNE 29, 2001)
For: SUPPLEMENTAL AUDIO CONTENT)
SYSTEM WITH WIRELESS COMMUNI-)
CATION FOR A CINEMA AND)
RELATED METHODS)

Examiner: E. MCCHESNEY

Art Unit: 2644

APPELLANT'S APPEAL BRIEF

MS: Appeal Brief - Patents
Commissioner for Patents
Alexandria, VA 22313-1450

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Sir:

Submitted herewith is Appellant's Appeal Brief. The Commissioner is hereby authorized to charge the Appeal Brief fee in the amount of \$320.00 to Deposit Account No. 08-0870. If any additional extension and/or fee is required, authorization is given to charge Deposit Account No. 08-0870.

(1) REAL PARTY IN INTEREST

The real party in interest for the present application is the assignee, Harris Corporation.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the present application.

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(3) STATUS OF CLAIMS

All of Claims 1-64 are pending in the present application and all are rejected. Accordingly, all of Claims 1-64 are the subject of this appeal.

(4) STATUS OF AMENDMENTS

A Response to the Final Office Action was filed on February 26, 2003. An Amendment was filed on October 15, 2002 in response to the Office Action dated September 12, 2002. The claims in the Appendix incorporate all amendments.

(5) CONCISE SUMMARY OF THE INVENTION

The present invention is directed to entertainment systems and methods. More particularly, the present invention is directed to a system for efficiently and economically providing supplemental audio content to movie patrons in cinemas using motion picture film.

As illustrated below in FIG. 1, and as described on pages 8-19 of the patent application, the present invention includes a supplemental audio content system for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of a cineplex 20 comprising a plurality of individual cinemas 21a-21d.

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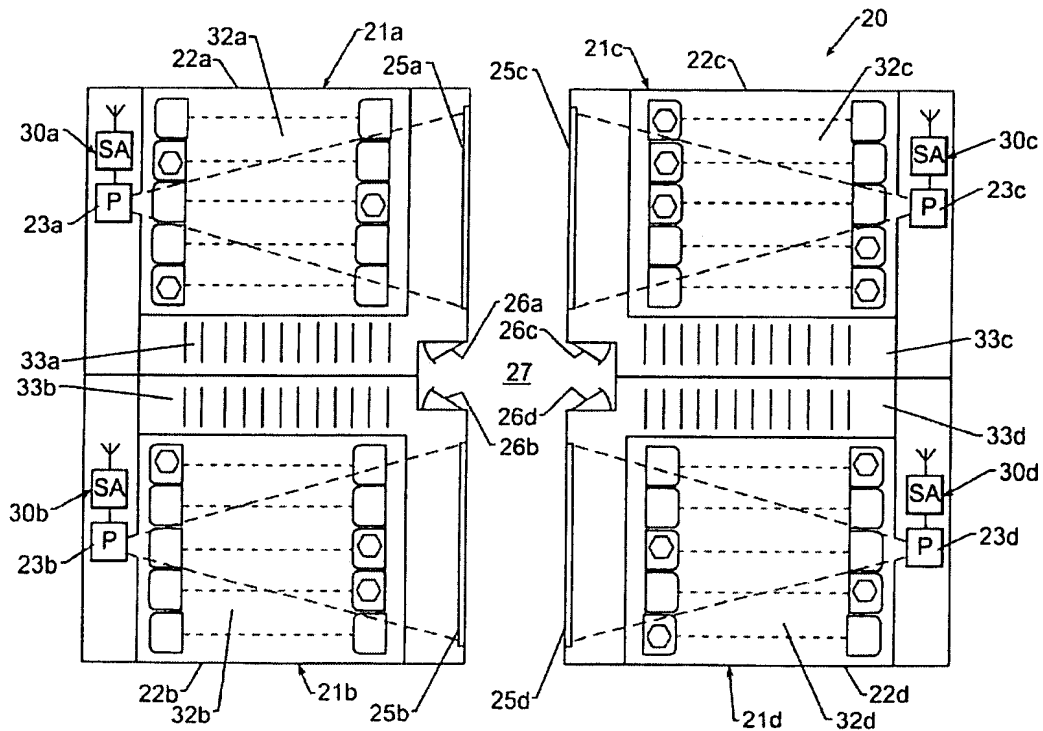


Fig. 1

As illustrated below in FIG. 2, the supplemental audio content system 30a, 30d includes a supplemental audio content player 40a, 40d for playing supplemental audio content during playing of the motion picture and associated soundtrack. A wireless transmitter 42a, 42d is connected to the supplemental audio content player 40a, 40d.

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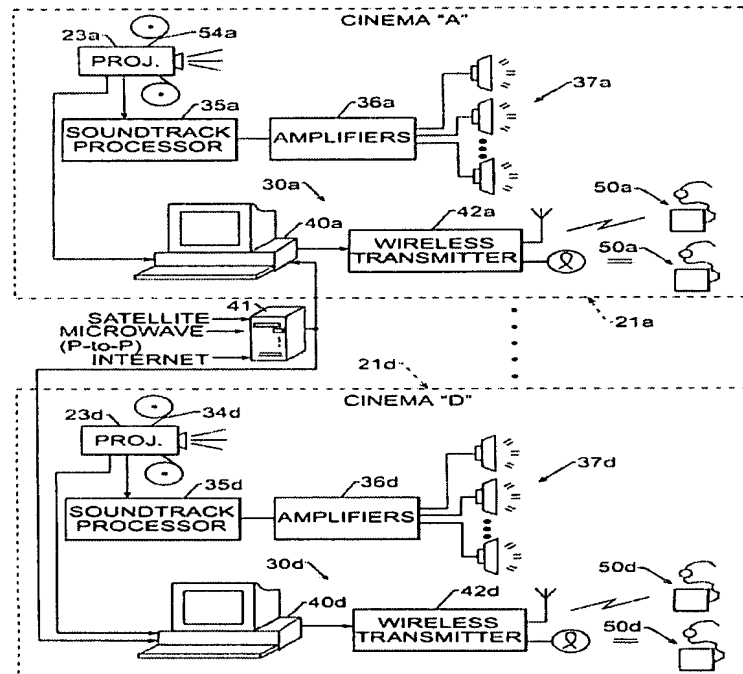


Fig. 2

As illustrated below in FIG. 4, the supplemental audio content system further includes a movie patron unit 50a to be worn by a movie patron. The movie patron unit 50a may illustratively be provided by an earphone 70a. A wireless receiver 80a is connected to the earphone 70a and cooperates with the wireless transmitter to deliver supplemental audio content to the movie patron. The wireless transmitter and

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wireless receiver 80a have operating characteristics to avoid interference with respective supplemental audio content systems for other cinemas of the cineplex.

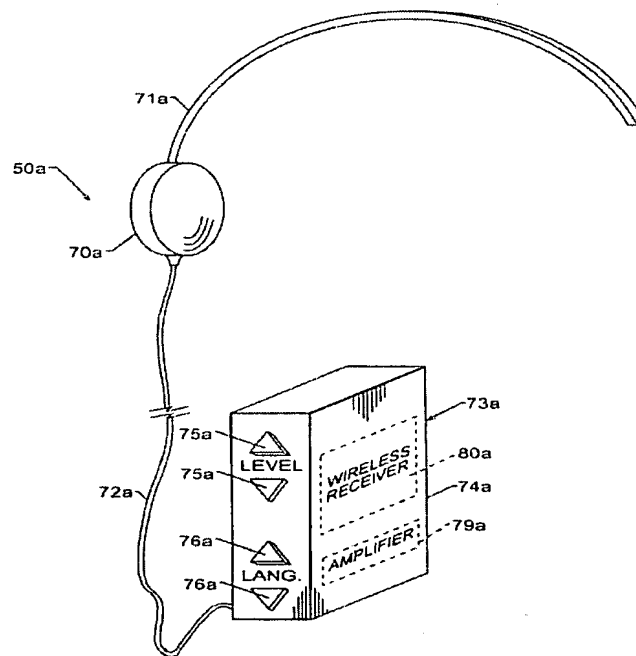


Fig. 4

The wireless transmitter may include a spread spectrum modulator, and the wireless receiver may include a

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spread spectrum demodulator. Alternately, an infrared transmitter may be connected to the supplemental audio content player, and an infrared receiver may be connected the earphone and cooperate with the wireless transmitter to deliver supplemental audio content to the movie patron.

The present invention advantageously provides a system and method for efficiently and economically providing supplemental audio content to movie patrons in cinemas using motion picture film. The present invention also advantageously provides a supplemental audio content system in which the transmitters and receivers have operating characteristics to avoid interference between audio content systems in adjacent cinemas of the cineplex.

(6) **ISSUES**

The issues presented on appeal is whether Claims 1-43, and 51-64 are patentable over the Karamon et al. patent (U.S. Patent No. 5,055,939) in view of the Oltman et al. patent (U.S. Patent No. 5,822,440), and whether Claims 44-50 are patentable over the Karamon et al. patent in view of the Oltman et al. patent, and further in view of the Denenberg patent (U.S. Patent No. 5,375,174).

(7) **GROUPING OF CLAIMS**

For the purposes of addressing the rejections under 35 U.S.C. §103, Claims 1-43 and 51-64 are grouped together, and Claims 44-50 are grouped together.

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(8) ARGUMENT

I. Independent Claims 1, 19, 32, and 51 are patentable over Karamon et al. in view of Oltman et al.

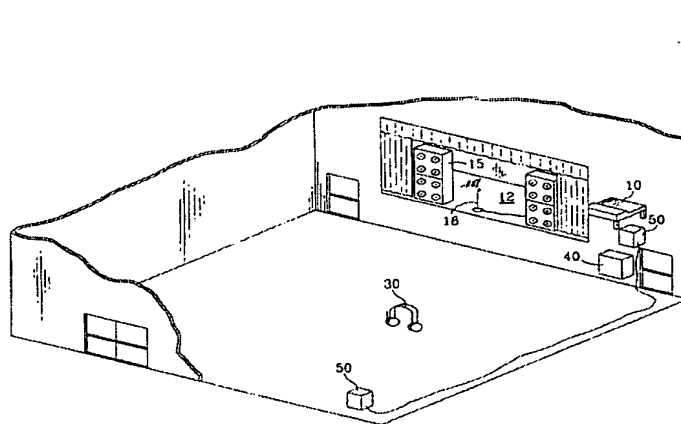
The Examiner rejected independent Claims 1, 19, 32, and 51 over the Karamon et al. patent in view of the Oltman et al. patent. More particularly, the Examiner contended that the Karamon et al. patent discloses auxiliary audio being synchronized with the conventional audio portion of the cinema. The Examiner further contended that Oltman et al. discloses wireless transmission of audio through the use of wireless transmitters and receivers. The Examiner then concluded that it would have been obvious to use the wireless headphone system disclosed by Oltman et al. in combination with the system disclosed by Karamon et al. to allow audience members to be seated wherever they desire instead of in preselected locations.

Applicant submits that a selective combination of the Karamon et al. and Oltman et al. patents still fails to produce the claimed invention. As illustrated below, the Karamon et al. patent discloses the synchronization of a higher quality sound track with the ordinary motion picture sound track, or a sound track of a different language with the ordinary motion picture sound track so that segments of a cinema audience sitting in preselected seats may choose a translation sound track. More particularly, the Karamon et al. patent notes that the auxiliary digital sound source is "locked in time" to an analog sound track of a cinema film (column 1, lines 22-25), and that the visual information is shown in conjunction with the auxiliary audio, "which is in



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Further, the Oltman et al. wireless headphones 30 include a transmitter and receiver, each of which utilize an unlicensed frequency band defined by the FCC for in-home and short-range use.



OLTMAN ET AL. FIG. 1

The Applicant submits that a combination of the Karamon et al. patent and the Oltman et al. patent still fails to teach or suggest a wireless transmitter connected to a supplemental audio content player, and a wireless receiver connected to an earphone worn by the movie patron that has operating characteristics to avoid interference with respective supplemental audio content systems for other cinemas of a cineplex. Accordingly, a combination of the Karamon et al. and Oltman et al. patents fail to teach the claimed invention.

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The Applicant further submits that the Examiner has used impermissible hindsight reconstruction to very selectively assemble disjoint pieces of the prior art. There is no proper motivation in the prior art for the selective combination of references.

The Oltman et al. patent actually teaches away from a combination with the Karamon et al. patent. The Karamon et al. patent discloses an apparatus and method for synchronizing an auxiliary sound source containing multiple language channels with a motion picture containing a sound track, while the Oltman et al. patent discloses that the sound received over the wireless channel is "slightly behind" the phase of the sound arriving from the speaker. Accordingly, any combination of the Oltman et al. patent with the Karamon et al. patent would make the purpose of the Karamon et al. patent fail, i.e., the delayed synchronism of the Oltman et al. headphones would destroy the "perfect synchronism" of the Karamon et al. system. Therefore, a combination of the Karamon et al. and Oltman et al. patents is improper.

One skilled in the art would recognize that combining Karamon et al. and Oltman et al. would destroy the operability of Karamon et al. In other words, intentionally delaying the synchronization of the sound, as disclosed in Oltman et al., would destroy the operability of a synchronization system for "perfectly synchronizing" a movie sound track with motion picture images.

The Examiner recognized that Karamon et al. fails to disclose wireless transmission of audio, and looks to the Oltman et al. reference to find this recitation. Applicant

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submits that there is no proper motivation to combine the references. Instead, the Examiner appears to be using improper hindsight reconstruction based upon Applicant's specification to selectively combine disjoint bits and pieces of the prior art in an attempt to produce the claimed invention. In other words, in making the proposed combination of the Karamon et al. patent and the Oltman et al. patent, the Examiner is not taking into consideration what the references teach as a whole. Instead, the Examiner has removed one small facet of the Oltman et al. reference for combination with the primary Karamon et al. patent reference, and has labeled the rest of the Oltman et al. disclosure as being inapplicable (see final Office Action page 17, paragraph 8). Therefore, the combination of the Karamon et al. and the Oltman et al. patents is improper.

Again, it is also reiterated that there are simply no teachings in these references regarding wireless interference avoidance in a cinema of a cineplex as in the claimed invention. Applicant therefore submits that independent Claims 1, 19, 32, and 51 are patentable. The dependent claims, which recite yet further distinguishing features, are also patentable, and require no further discussion herein.

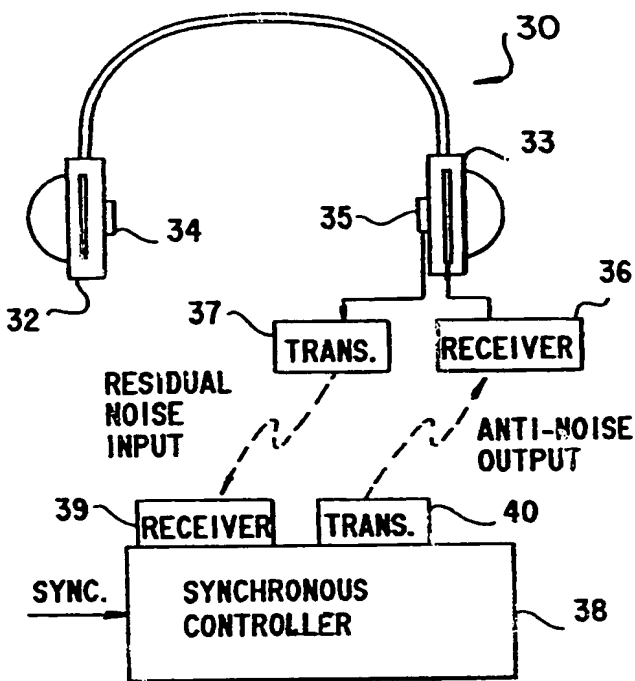
II. Independent Claim 44 is patentable over Karamon et al. in view of Oltman et al., and further in view of Denenberg

The Examiner rejected independent Claim 44 over the Karamon et al. patent, in view of the Oltman et al., and

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further in view of Denenberg. More particularly, the Examiner contended Denenberg discloses a wireless headset capable of infrared transmission.

As illustrated below, the Denenberg patent discloses a wireless headset 30 with active noise cancellation using either infrared or radio frequency control. More specifically, the wireless headset is used in emergency vehicles to block the noise of the siren and allow emergency personnel to communicate.



DENENBERG FIG. 3

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Applicant submits that the Denenberg patent still fails to make up for the deficiencies of the Oltman et al. and the Karamon et al. patents. In other words, there are simply no teachings in these references regarding wireless, or infrared, transmission for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of a cineplex comprising a plurality of individual cinemas, as in the claimed invention.

Applicant also submits that the Oltman et al. patent actually teaches away from a combination with the Karamon et al. patent. As noted above, the Karamon et al. patent discloses "perfect synchronism", while the Oltman et al. patent discloses that the sound received over the wireless channel is "slightly behind" the phase of the sound arriving from the speaker. Any combination of these references along with the Denenberg infrared headphones would also be improper.

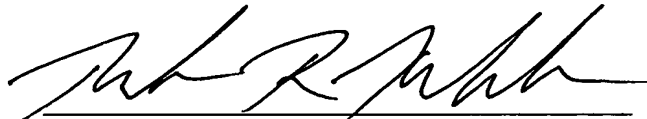
Applicant therefore submits that independent Claim 44 is patentable. Its dependent claims, which recite yet further distinguishing features, are also patentable, and require no further discussion herein.

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CONCLUSIONS

In view of the arguments presented above, it is submitted that all of the claims, namely Claims 1-64, are patentable over the prior art. Accordingly, Applicants respectfully request that all of the rejections be reversed.

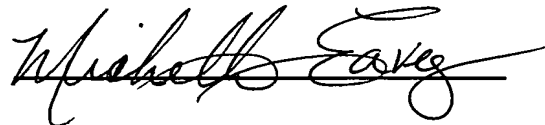
Respectfully submitted,



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APPENDIX INCLUDING THE CLAIMS ON APPEAL
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1. A supplemental audio content system for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of cineplex comprising a plurality of individual cinemas, the supplemental audio content system comprising:

a supplemental audio content player for playing supplemental audio content during playing of the motion picture and associated soundtrack;

a wireless transmitter connected to said supplemental audio content player;

at least one earphone to be worn by the at least one movie patron; and

at least one wireless receiver connected to said at least one earphone and cooperating with said wireless transmitter to deliver supplemental audio content to the at least one movie patron;

said wireless transmitter and wireless receiver having operating characteristics to avoid interference with respective supplemental audio content systems for other cinemas of the cineplex.

2. A supplemental audio content system according to Claim 1 wherein the supplemental audio content comprises spoken words devoid of music and sound effects.

3. A supplemental audio content system according to

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Claim 1 wherein the supplemental audio content comprises alternate language audio content.

4. A supplemental audio content system according to Claim 1 wherein the supplemental audio content comprises descriptive narrative audio content.

5. A supplemental audio content system according to Claim 1 wherein said wireless transmitter comprises a digital modulator; and wherein said at least one wireless receiver comprises a digital demodulator.

6. A supplemental audio content system according to Claim 1 wherein said wireless transmitter comprises a spread spectrum modulator; and wherein said at least one wireless receiver comprises a spread spectrum demodulator.

7. A supplemental audio content system according to Claim 6 wherein said spread spectrum modulator uses direct sequence spread spectrum modulation; and wherein said spread spectrum demodulator uses direct sequence spread spectrum demodulation.

8. A supplemental audio content system according to Claim 6 wherein said spread spectrum modulation uses frequency hopping spread spectrum modulation; and wherein said spread spectrum demodulator uses frequency hopping spread spectrum demodulation.

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9. A supplemental audio content system according to Claim 1 wherein said wireless transmitter and said at least one wireless receiver use at least one selectable channel.

10. A supplemental audio content system according to Claim 9 wherein the at least one selectable channel comprises at least one selectable radio frequency channel.

11. A supplemental audio content system according to Claim 1 wherein said wireless transmitter comprises a radio frequency (RF) transmitter; and wherein said at least one wireless receiver comprises at least one RF receiver.

12. A supplemental audio content system according to Claim 11 wherein said RF transmitter and at least one RF receiver operate in an unlicensed RF band.

13. A supplemental audio content system according to Claim 11 wherein said RF transmitter and said at least one RF receiver operate in a range of about 2.400 to 2.4835 Ghz.

14. A supplemental audio content system according to Claim 1 wherein said wireless transmitter comprises an infrared transmitter; and wherein said at least one wireless receiver comprises at least one infrared receiver.

15. A supplemental audio content system according to Claim 1 wherein said at least one wireless receiver comprises a respective wireless receiver for each at least one

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earphone.

16. A supplemental audio content system according to Claim 1 further comprising at least one earphone level control connected to said at least one earphone.

17. A supplemental audio content system according to Claim 1 wherein said at least one earphone comprises at least one open field earphone.

18. A supplemental audio content system according to Claim 1 wherein said supplemental audio content player comprises:

- a storage device for storing the supplemental audio content; and

- a processor for reading the supplemental audio content from said storage device during playing of the motion picture and associated soundtrack.

19. A supplemental audio content system for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of cineplex comprising a plurality of individual cinemas, the supplemental audio content system comprising:

- a supplemental audio content player for playing supplemental audio content during playing of the motion picture and associated soundtrack;

- a wireless transmitter connected to said

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supplemental audio content player; and

at least one movie patron unit comprising an earphone and a wireless receiver connected thereto and cooperating with said wireless transmitter to deliver supplemental audio content to the at least one movie patron;

said wireless transmitter and wireless receiver comprising a digital modulator and a digital demodulator respectively to avoid interference with respective supplemental audio content systems for other cinemas of the cineplex.

20. A supplemental audio content system according to Claim 19 wherein the supplemental audio content comprises spoken words devoid of music and sound effects.

21. A supplemental audio content system according to Claim 19 wherein the supplemental audio content comprises alternate language audio content.

22. A supplemental audio content system according to Claim 19 wherein the supplemental audio content comprises descriptive narrative audio content.

23. A supplemental audio content system according to Claim 19 wherein said digital modulator uses direct sequence spread spectrum modulation; and wherein said digital demodulator uses direct sequence spread spectrum demodulation.

24. A supplemental audio content system according

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to Claim 19 wherein said digital modulator uses frequency hopping spread spectrum modulation; and wherein said digital demodulator uses frequency hopping spread spectrum demodulation.

25. A supplemental audio content system according to Claim 19 wherein said wireless transmitter and said at least one wireless receiver use at least one selectable channel.

26. A supplemental audio content system according to Claim 25 wherein the at least one selectable channel comprises at least one selectable radio frequency channel.

27. A supplemental audio content system according to Claim 19 wherein said wireless transmitter comprises a radio frequency (RF) transmitter; and wherein said at least one wireless receiver comprises at least one RF receiver.

28. A supplemental audio content system according to Claim 19 wherein said wireless transmitter comprises an infrared transmitter; and wherein said at least one wireless receiver comprises at least one infrared receiver.

29. A supplemental audio content system according to Claim 19 wherein said movie patron unit further comprises an earphone level control connected to said earphone.

30. A supplemental audio content system according

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to Claim 19 wherein said earphone comprises an open field earphone.

31. A supplemental audio content system according to Claim 19 wherein said supplemental audio content player comprises:

a storage device for storing the supplemental audio content; and

a processor for reading the supplemental audio content from said storage device during playing of the motion picture and associated soundtrack.

32. A supplemental audio content system for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of cineplex comprising a plurality of individual cinemas, the supplemental audio content system comprising:

a supplemental audio content player for playing supplemental audio content during playing of the motion picture and associated soundtrack;

a wireless transmitter connected to said supplemental audio content player;

at least one earphone to be worn by the at least one movie patron; and

at least one wireless receiver connected to said at least one earphone and cooperating with said wireless transmitter to deliver supplemental audio content to the at least one movie patron;

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said wireless transmitter and wireless receiver comprising a spread spectrum modulator and a spread spectrum demodulator respectively.

33. A supplemental audio content system according to Claim 32 wherein the supplemental audio content comprises spoken words devoid of music and sound effects.

34. A supplemental audio content system according to Claim 32 wherein the supplemental audio content comprises alternate language audio content.

35. A supplemental audio content system according to Claim 32 wherein the supplemental audio content comprises descriptive narrative audio content.

36. A supplemental audio content system according to Claim 32 wherein said spread spectrum modulator uses direct sequence spread spectrum modulation; and wherein said spread spectrum demodulator uses direct sequence spread spectrum demodulation.

37. A supplemental audio content system according to Claim 32 wherein said spread spectrum modulator uses frequency hopping spread spectrum modulation; and wherein said spread spectrum demodulator uses frequency hopping spread spectrum demodulation.

38. A supplemental audio content system according

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to Claim 32 wherein said wireless transmitter comprises a radio frequency (RF) transmitter; and wherein said at least one wireless receiver comprises at least one RF receiver.

39. A supplemental audio content system according to Claim 38 wherein said RF transmitter and at least one RF receiver operate in an unlicensed RF band.

40. A supplemental audio content system according to Claim 38 wherein said RF transmitter and said at least one RF receiver operate in a range of about 2.400 to 2.4835 Ghz.

41. A supplemental audio content system according to Claim 32 further comprising at least one earphone level control connected to said at least one earphone.

42. A supplemental audio content system according to Claim 32 wherein said at least one earphone comprises at least one open field earphone.

43. A supplemental audio content system according to Claim 32 wherein said supplemental audio content player comprises:

a storage device for storing the supplemental audio content; and

a processor for reading the supplemental audio content from said storage device during playing of the motion picture and associated soundtrack.

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44. A supplemental audio content system for providing supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of a cineplex comprising a plurality of individual cinemas, the supplemental audio content system comprising:

a supplemental audio content player for playing supplemental audio content during playing of the motion picture and associated soundtrack;

an infrared transmitter connected to said supplemental audio content player;

at least one earphone to be worn by the at least one movie patron; and

at least one infrared receiver connected to said at least one earphone and cooperating with said infrared transmitter to deliver supplemental audio content to the at least one movie patron.

45. A supplemental audio content system according to Claim 44 wherein the supplemental audio content comprises spoken words devoid of music and sound effects.

46. A supplemental audio content system according to Claim 44 wherein the supplemental audio content comprises alternate language audio content.

47. A supplemental audio content system according to Claim 44 wherein the supplemental audio content comprises descriptive narrative audio content.

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48. A supplemental audio content system according to Claim 44 further comprising at least one earphone level control connected to said at least one earphone.

49. A supplemental audio content system according to Claim 44 wherein said at least one earphone comprises at least one open field earphone.

50. A supplemental audio content system according to Claim 44 wherein said supplemental audio content player comprises:

a storage device for storing the supplemental audio content; and

a processor for reading the supplemental audio content from said storage device during playing of the motion picture and associated soundtrack.

51. A method for delivering supplemental audio content to at least one movie patron during playing of a motion picture film and associated soundtrack in a cinema of cineplex comprising a plurality of individual cinemas, the method comprising:

providing at least one movie patron unit comprising an earphone and a wireless receiver connected thereto; and

wirelessly transmitting the supplemental audio content from a wireless transmitter to the at least one movie patron unit to thereby deliver supplemental audio content to the at least one movie patron;

the wireless transmitter and wireless receiver

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having operating characteristics to avoid interference with respective supplemental audio content systems for other cinemas of the cineplex.

52. A method according to Claim 51 wherein the supplemental audio content comprises spoken words devoid of music and sound effects.

53. A method according to Claim 51 wherein the supplemental audio content comprises alternate language audio content.

54. A method according to Claim 51 wherein the supplemental audio content comprises descriptive narrative audio content.

55. A method according to Claim 51 wherein the wireless transmitter uses digital modulation; and wherein the at least one wireless receiver uses digital demodulation.

56. A method according to Claim 51 wherein the wireless transmitter uses spread spectrum modulation; and wherein the at least one wireless receiver uses spread spectrum demodulation.

57. A method according to Claim 56 wherein the spread spectrum modulation comprises direct sequence spread spectrum modulation; and wherein the spread spectrum demodulation comprises direct sequence spread spectrum

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demodulation.

58. A method according to Claim 56 wherein the spread spectrum modulation comprises frequency hopping spread spectrum modulation; and wherein the spread spectrum demodulation comprises frequency hopping spread spectrum demodulation.

59. A method according to Claim 51 wherein the wireless transmitter and the at least one wireless receiver use at least one selectable channel.

60. A method according to Claim 59 wherein the at least one selectable channel comprises at least one selectable radio frequency channel.

61. A method according to Claim 51 wherein the wireless transmitter comprises a radio frequency RF transmitter; and wherein the at least one wireless receiver comprises at least one RF receiver.

62. A method according to Claim 51 wherein the wireless transmitter comprises an infrared transmitter; and wherein the at least one wireless receiver comprises at least one infrared receiver.

63. A method according to Claim 51 wherein the movie patron unit further comprises an earphone level control connected to the earphone.

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64. A method according to Claim 51 wherein the earphone comprises an open field earphone.